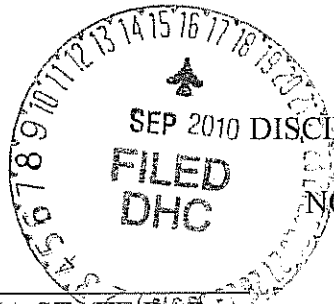


NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
FILE NO: 10 DHC 27

THE NORTH CAROLINA STATE BAR )  
Plaintiff )

Vs. )

HOLLY C. STEVENS, PAULINE E. )  
MAKIA, CARMEN J. BATTLE, JAMIE )  
FAYE NEWSOM, Attorney, )  
Defendant )

**ANSWER of PAULINE E. MAKIA**

NOW COMES the Defendant Pauline E. Makia, by and through counsel, and responds to the Complaint of the Plaintiff as follows:

1. Paragraph 1 is admitted.

2. As to the allegations contained in paragraph 2 it is admitted that Holly C. Stevens was admitted to the North Carolina State Bar and as such she was or is subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct. As to any other allegations contained therein the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

3. Paragraph 3 is admitted.

4. As to the allegations contained in paragraph 4 it is admitted that Carmen J. Battle was admitted to the North Carolina State Bar and as such she was or is subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct. As to any other allegations contained therein the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations

and the same is therefore denied.

5. As to the allegations contained in paragraph 5 it is admitted that Jamie Faye Newsome was admitted to the North Carolina State Bar and as such she was or is subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct. As to any other allegations contained therein the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

6. As to paragraph 6, it is admitted that Defendant Pauline E. Makia was engaged in the practice of law in the State of North Carolina, including Fayetteville, Cumberland County, North Carolina. It is admitted that all of the other defendants at some point in time practiced law in Fayetteville, North Carolina. As to any other allegations contained therein the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

7. As to paragraph 7, it is admitted that Holly C. Stevens established a law office in Fayetteville, North Carolina and that at some point in time she began closing real estate transactions that involved Maurice Jenkins. It is further admitted that Jenkins purported to be a real estate investor and someone who marketed properties to others for rental property investments. As to any other allegations contained therein the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

8. As to paragraph 8, it is admitted, upon information and belief, that Jenkins engaged in certain fraudulent practices involving real estate transactions. As to the exact nature of those transactions the Defendant Makia does not have information sufficient to form a belief

as to the truth or falsity of those allegations and the same is therefore denied.

9. As to paragraph 9, it is admitted, upon information and belief, that Jenkins was convicted on some form of fraud charge. As to any other allegations contained therein the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

10. As to paragraph 10, it is admitted that Stevens closed certain real estate transaction involving Jenkins. As to the exact nature of those transactions the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

11. The allegations contained in paragraph 11 are not directed towards the Defendant Makia, and therefore no response is required. However, to the extent a response is deemed to be required, or to the extent these allegations attempt to establish liability on the part of the Defendant Makia, they are denied.

12. The allegations contained in paragraph 12 are not directed towards the Defendant Makia, and therefore no response is required. However, to the extent a response is deemed to be required, or to the extent these allegations attempt to establish liability on the part of the Defendant Makia, they are denied.

13. The allegations contained in paragraph 13 are not directed towards the Defendant Makia, and therefore no response is required. However, to the extent a response is deemed to be required, or to the extent these allegations attempt to establish liability on the part of the Defendant Makia, they are denied.

14. As to the allegations in paragraph 14 the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same

is therefore denied.

15. Paragraph 15 is admitted.

16. The allegations in the first two sentences of paragraph 16 are admitted. As to the third sentence of paragraph 16, it is admitted that Exhibit B is not an exclusive listing of all transactions closed by Defendant Makia. All other allegations referenced therein are denied unless specifically admitted hereinafter.

17. The allegations in the first sentence of paragraph 17 are admitted. As to all other allegations contained therein, Defendant Makia provided supervision of her assistants and of their work normally sufficient to comply with the Rules of Professional Conduct for real estate transactions closed by her office. However, unbeknownst to her, a member of her staff, on information and belief, was engaged in a conspiracy with Jenkins and possibly others to engage in fraudulent real estate practices and took various steps to conceal or disguise her misconduct in certain real estate transactions to the detriment of Defendant Makia, her clients and others.

18. The allegations in the first sentence of paragraph 18 are admitted. As to the remaining allegations in paragraph 18, Defendant Makia was the victim of a complicated, multi-party real estate fraud scam and any inappropriate actions or failures to act were caused by Defendant Makia being purposely misled as to the true facts involved.

19. As to allegations of paragraph 19, it is admitted that Defendant Makia delivered over sufficient closing proceeds to record various Deeds and Deeds of Trust before they were actually recorded. As to the other allegations contained therein, Defendant Makia took normal precautions to provide for the proper handling of recordation of Deeds and Deeds of Trust.

20. The allegations in the first sentence of paragraph 20 are admitted. All other allegations contained therein are denied.

21. As to the allegations in paragraph 21, Defendant Makia's relative inexperience and failure to adequately supervise her staff also affected the two transactions involving lender Homecoming Financial Network (HFN) listed in Exhibit B to the Complaint. All other allegations contained therein are denied.

22. Paragraph 22 is admitted.

23. As to the allegations in Paragraph 23, all funds were disbursed to the appropriate parties as contemplated in the transaction and as shown on the HUD closing statement. On information and belief, only the checks for recording were utilized prior to, or contemporaneously with, recording, as is to be expected.

24. The allegations in the first and third sentences of paragraph 24 are admitted. As to the allegations in the second sentence in paragraph 24, the incorrect information was listed as a result of inaccurate or false information communicated to the title insurance company by a staff member of Defendant Makia's office. All other allegations contained therein are denied.

25. As to the allegations in paragraph 25, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

26. As to the allegations in paragraph 26, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

27. As to the allegations in paragraph 27, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

28. As to the allegations in paragraph 28, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

29. As to the allegations in paragraph 29, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

30. As to the allegations in paragraph 30, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

31. As to the allegations in paragraph 31, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

32. As to the allegations in paragraph 32, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

33. As to the allegations contained in paragraph 33, it is admitted that sometime in 2006, Newsome purchased Stevens law practice and began to take over the real estate closings. As to any other allegations contained therein, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

34. As to the allegations contained in paragraph 34, it is admitted that Newsome closed several transactions involving Jenkins. As to any other allegations contained therein, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of

those allegations and the same is therefore denied.

35. As to the allegations in paragraph 35, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

36. As to the allegations in paragraph 36, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

37. As to the allegations in paragraph 37, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

38. As to the allegations in paragraph 38, the Defendant Makia does not have information sufficient to form a belief as to the truth or falsity of those allegations and the same is therefore denied.

39. As to the unnumbered paragraph directly following paragraph 38, it is admitted that the Plaintiff has alleged that Defendant's foregoing action constitutes grounds for discipline pursuant to N.C Gen. Stat. §84-28(b)(2) for a variety of reasons enumerated in subparagraphs a, b, c, d, e and f. Numerous portions of these allegations are not directed towards the Defendant Makia, and therefore no response is required. However, to the extent a response is deemed to be required, or to the extent these allegations attempt to establish liability on the part of the Defendant Makia, they are denied. As to any allegations directed to the Defendant Makia, they are allegations which seek to allege a legal conclusion for which no response is required.

#### **GENERAL DENIAL**

Any allegations not specifically admitted herein above are denied.

### **FIRST AFFIRMATIVE DEFENSE**

The Defendant Makia set up and organized her real estate closing practice in an appropriate and professional manner and she hired experienced employees to assist her. The problem noted in the Complaint stems primarily from the fact that Defendant Makia was a victim of an elaborate, multi-party real estate fraud scheme perpetrated, in part, by one of her own employees. The same is plead as an affirmative defense or in mitigation of the charges made against Defendant Makia.

### **SECOND AFFIRMATIVE DEFENSE**

Upon discovering the problems alleged in the Complaint related to her Law Office, before any other person or organization had, Defendant Makia immediately began an internal investigation, (after such) fired the perpetrator, hired an attorney and a CPA to assist her and self-reported the problems of which she was aware to the affected Title Insurance Companies, the State Bar and her Malpractice Carrier. In addition to initially self-reporting to the State Bar, Defendant Makia has kept the State Bar updated on any problems as they arose, offered to answer any questions the Bar may have, turned over every document requested (and more) and cooperated fully and promptly with the Bar's investigation. Furthermore, she has cooperated with the affected title insurance companies, her malpractice carrier and the FBI in regards to the problems noted in the Complaint. The same is plead as an affirmative defense or in mitigation of the charges made against Defendant Makia.

### **THIRD AFFIRMATIVE DEFENSE**

From her own funds or through malpractice insurance, Defendant Makia has settled any outstanding lawsuits against her. The same is plead as an affirmative defense or in mitigation of the charges made against Defendant Makia.




#### **FOURTH AFFIRMATIVE DEFENSE**

Although it is true that Defendant Makia lacked extensive experience in real estate closing matters, she did hire experienced people to assist her and she did set up proper procedures for handling closings. Her relative inexperience may have been the source of a lack of sufficient suspicion and cynicism about the ways dishonest people can manipulate the system (particularly from trusted people inside your own organization), but her experience and knowledge was sufficient in a fraud-free environment to competently handle real estate closings with the occasional mistakes that can attend most real estate practices. The same is plead as an affirmative defense or in mitigation of the charges made against Defendant Makia.

WHEREFORE, the Defendant Pauline E. Makia prays the Disciplinary Hearing Commission for the following relief:

1. The Complaint of the Plaintiff be dismissed as to Defendant Makia.
2. That no disciplinary action be taken against Defendant Makia.
3. For such other relief or action as the Disciplinary Hearing Commission deems appropriate.

This the 14<sup>th</sup> day of September, 2010.

  
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GARRIS NEIL YARBOROUGH  
Attorney for Defendant Pauline E. Makia  
PO Box 705  
Fayetteville, NC 28302  
(910) 433-4433

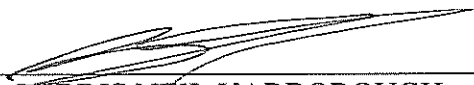
## CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing Answer of Pauline Makia has been duly served upon the below named individual by United States Postal Service to the following address:

**Ms. Jennifer Porter  
NC State Bar  
PO Box 25908  
Raleigh NC 27611**

This the 14<sup>th</sup> day of September, 2010.

By: \_\_\_\_\_

  
**GARRIS NEIL YARBOROUGH**  
Attorney at Law  
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